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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/821,988	04/12/2004	R. O'Neal Gray	73722 00002	1577
33222	7590	05/05/2006	EXAMINER KIM, AHSHIK	
JONES, WALKER, WAECHTER, POITEVENT, CARRERE & DENEGRE, L.L.P. 5TH FLOOR, FOUR UNITED PLAZA 8555 UNITED PLAZA BOULEVARD BATON ROUGE, LA 70809			ART UNIT 2876	
DATE MAILED: 05/05/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/821,988

Applicant(s)

GRAY, R. O'NEAL

Examiner

Ahshik Kim

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 21 December 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 January 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Response*

1. Receipt is acknowledged of the response filed on December 21, 2005. No claims were  
5 canceled, amended or newly added. Currently, claims 1-6 remain in the examination.

### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

10 A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-6 are rejected under 35 U.S.C. 102(b) as being anticipated by Davis et al. (US  
15 6,311,167 B1, hereinafter “Davis”).

Re claims 1 and 4, Davis discloses a system, methods and the apparatus for facilitating commercial transactions (see abstract; col.1, lines 13-29), which can be facilitated at a POS terminal 916 (col. 13, lines 45+) comprising a credit holder holding and maintaining the consumer's account (col. 3, lines 16-27); a consumer communication device 102 (col. 4, lines  
20 13+), which is used to initiate a transaction involving a merchant 916 and a credit holder (i.e., bank or credit card company (col. 2, lines 44+; col. 17, lines 51-66); a transaction approval device, which approves or denies a transaction based on a criteria (col. 21, line 65 – col. 22, line 11;) and the indication of approval or denial is forwarded to the consumer (col. 22, lines 24+). The transaction-related messages are forwarded to the consumer and merchants (col. 18, lines

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1+). Davis discloses utilizing databases 1106 and 1108 in processing the consumer's request (see figure 11). However, Davis does not explicitly suggest a database used by the credit holder or bank. However, it is the Examiner's view that manipulation of numerous customer records and transactions would require a database tool or equivalent hardware and software.

5 Re claims 2 and 5, as shown in the main figure (or figure 9), the merchant 916 and paging terminal 102 – the consumer are remotely located.

Re claims 3 and 6, the network infrastructure includes a wireless communication device (col. 1, lines 30+).

10

### *Response to Arguments*

4. Applicant's arguments filed on December 21, 2005 have been carefully reviewed and considered. However, they are not persuasive since it is the Examiner's view that the Davis patent discloses the subject matter claimed in claims 1-6.

15 A credit holder (or banks' customer) is referred in Davis as a user (col. 3, lines 6-15). In fact, in one aspect of the application, the user programs a personal identification number into the smart card via the subscriber unit or pager. The smart card is referred as "a consumer communications device [E.G SMART CARD]" (See Remarks page 6, line 1).

20 With respect to transaction approval (col. 21, lines 65+), Examiner acknowledges that the particular embodiment is a financial transfer. However, considering an ordinary purchase transaction with user's credit card, it is the Examiner's position that the similar approval process (or less complicated process) is used. As illustrated in figure 9, the merchant can be a grocery store (or POS terminal at the grocery store (col. 13, lines 28-53). It is observed that when

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purchasing items at the grocery store with credit card, the payment is made only if the transaction is approved.

Examiner's position is not that the credit holder is a bank. The Davis patent discloses a credit holder – user; user's financial institution – bank or credit card company; and an approval system which is a part of credit card company or bank.

Applicant's remarks regarding these points have been fully considered, but they are not persuasive, and therefore, the Examiner has made this Office Action final.

### *Conclusion*

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ahshik Kim whose telephone number is (571)272-2393. The examiner can normally be reached between the hours of 6:00AM to 3:00PM Monday thru Friday. The fax number directly to the Examiner is (571)273-2393.

5 If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G. Lee, can be reached on (571)272-2398. The fax phone number for this Group is (703)872-9306.

10 Communications via Internet e-mail regarding this application, other than those under 35 U.S.C. 132 or which otherwise require a signature, may be used by the applicant and should be addressed to [ahshik.kim@uspto.gov].

15 *All Internet e-mail communications will be made of record in the application file. PTO employees do not engage in Internet communications where there exists a possibility that sensitive information could be identified or exchanged unless the record includes a properly signed express waiver of the confidentiality requirements of 35 U.S.C. 122. This is more clearly set forth in the Interim Internet Usage Policy published in the Official Gazette of the Patent and Trademark on February 25, 1997 at 1195 OG 89.*

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0956.

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Ahshik Kim  
Patent Examiner  
Art Unit 2876  
25 April 28, 2006